



RESOLUTION

AMENDING RULES §3-81-17.51, §3-81-17.58, §3-82-33.11, §3-82-33.6, AND §3-83-54.1, RULES OF THE LIQUOR COMMISSION OF THE CITY AND COUNTY OF HONOLULU, AND PERTAINING TO LIQUOR LICENSE, TRADE NAME CHANGE, PERMIT, AND FILING FEES.

WHEREAS, Section 281-17.5, Hawaii Revised Statutes, as amended, mandates that any new liquor license fee or any increase in an existing liquor license fee shall be initiated by the Liquor Commission of the City and County of Honolulu ("Commission"), with the approval of the City Council and the Mayor of the City and County of Honolulu; and

WHEREAS, the Commission is a fiscally self-sustaining agency whose sole source of funds for its operations are liquor license fees and other permit and processing fees collected from licensees under its jurisdiction; and

WHEREAS, in spite of reasonable management of its expenditures, the Commission will require additional funds to continue operations and services at current levels and to fund the construction of a custom-built, high functionality database system for both Commission and licensee use; and

WHEREAS, the Commission has only increased license and other fees once since 2005; in 2016, changes to the Commission Rules resulted in a \$120 fee increase for Brewpubs (Category 2 - Music/Dancing); and

WHEREAS, the Commission undertook the amendment of Rules §3-81-17.51, §3-81-17.58, §3-82-33.11, §3-82-33.6, and §3-83-54.1 in order to implement an across-the-board increase to all fees in said rules, as well as to make conforming additions or corrections to previously omitted fees (collectively, "Fee Rule Amendments"); and

WHEREAS, the Fee Rule Amendments will include the following increases and revisions:

1. For Rule §3-81-17.51, to restore the ending fund balance amount to the statutorily permitted 20 percent level; to establish increased basic license fee amounts for all license classes; to establish basic and additional license fee amounts for certain class categories which were previously omitted; and to establish increased fee amounts for solicitors' and representatives' permits;
2. For Rule §3-81-17.58, to establish an increased processing fee for change of trade name;



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3. For Rule §3-82-33.11, to establish an increased permit fee for shipments of liquor;
4. For Rule §3-82-33.6, to establish an increased annual permit fee for direct wine shipments; and
5. For Rule §3-83-54.1, to establish an increased filing fee for new and transfer license applications; and

WHEREAS, the Commission, after proper notice to all licensees and the public, held a public hearing on August 31, 2017, which was continued to September 14, 2017 ("Public Hearing"), to hear testimony on the proposed Fee Rule Amendments; and

WHEREAS, the Commission, having duly considered all of the testimony offered at said Public Hearing and the recommendation of Commission administration, unanimously voted to adopt the Fee Rule Amendments at its September 21, 2017 meeting in the form as set forth in Exhibit A; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the amendments to Rules §3-81-17.51, §3-81-17.58, §3-82-33.11, §3-82-33.6, and §3-83-54.1 of the Rules of the Liquor Commission of the City and County of Honolulu, as adopted by the Commission on September 21, 2017, and as shown on Exhibit A attached hereto, be and is hereby approved, with an effective date of 10 days after filing with the City Clerk; and



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BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the Director of Budget and Fiscal Services and the Administrator of the Liquor Commission of the City and County of Honolulu.

INTRODUCED BY:

Ron Menor (br)

DATE OF INTRODUCTION:

December 19, 2017
Honolulu, Hawaii

Councilmembers

EXHIBIT A

§3-81-17.51 License Fees.

- (a) The fees for licenses shall be per annum except where specified. In addition to the basic license fee, an additional license fee will be assessed. This additional license fee will be assessed if the gross liquor sales achieves a certain threshold (hereinafter referred to as 'deductible'). The additional license fee assessment will be calculated on the net of the gross liquor sales less a deductible. The deductible will be prorated for licenses issued during the course of the fiscal year. For licenses that are cancelled or revoked during the course of a fiscal year but prior to the calculation of the deductible for that fiscal year, the prior year's deductible (prorated) will be used.

*The deductible will be calculated through the following formula:

- 1) Calculation of Additional Fees required for the next fiscal year

BFB = Estimated Beginning Fund Balance

LRF = Estimated License Renewals Fees

ALF = CALCULATED Additional License Fee

MR = Estimated Miscellaneous Revenue

BUD = Budget as submitted to Council for the next fiscal year

EFB = Ending Fund Balance (~~[Ten]~~ Twenty percent of BUD)

Basic Formula: $BFB + LRF + ALF + MR - BUD = EFB$

ALF = $EFB + BUD - BFB - LRF - MR$

- 2) Calculation of the DEDUCTIBLE

The prior year's gross liquor sales of each licensee will be entered into a database. The gross liquor sales will be analyzed and based on the assessment rate of the respective class and additional license fees required (ALF), the deductible for the fiscal year will be calculated. The calculated deductible will be rounded to the nearest thousands of dollars.

A maximum additional assessment fee has been established for each class. The fees for licenses based on different classes, kinds, and categories shall be as follows:

CLASS	KIND		FEES
1	Manufacturer		
	(a) Beer		[\$1,320] <u>\$1,980</u> , and one-tenth of one percent (0.001) of the total gross liquor sales less a *deductible, not to exceed \$5,000.
	(b) Wine		[\$600] <u>\$900</u> , and one-tenth of one

CLASS	KIND		FEES
			percent (0.001) of the total gross liquor sales less a *deductible, not to exceed \$5,000.
	Wine manufactured from fruits grown in the state		[\$120] <u>\$180</u>
	(c) Alcohol		[\$360] <u>\$540</u>
	(d) Other Liquors		[\$1,320] <u>\$1,980</u> , and one-tenth of one percent (0.001) of the total gross liquor sales less a *deductible, not to exceed \$5,000.
2	Restaurant		
	(a) General (includes all liquor, except alcohol)		
		(1) Category 1 - Standard	[\$1,200] <u>\$1,800</u> , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
		(2) Category 2 - Music/Dancing	[\$1,320] <u>\$1,980</u> , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
	(b) Beer & Wine		
		(1) Category 1 - Standard	[\$900] <u>\$1,380</u> , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
		(2) Category 2 - Music/Dancing	[\$960] <u>1,440</u> , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
	(c) Beer		
		(1) Category 1 - Standard	[\$360] <u>\$540</u> , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
		(2) Category 2 - Music/Dancing	[\$420] <u>\$660</u> , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
3	Wholesale		
	(a) General		[\$2,640] <u>\$3,960</u> , and one-tenth of one

CLASS	KIND		FEES
	(includes all liquor except alcohol)		percent (0.001) of the total gross liquor sales less a *deductible, not to exceed \$10,000.
	(b) Beer & Wine		[\$840] \$1,260 , and one-tenth of one percent (0.001) of the total gross liquor sales less a *deductible, not to exceed \$10,000.
	(c) Alcohol		[\$120] \$180
4	Retail		
	(a) General (includes all liquor except alcohol)		[\$1,200] \$1,800 , and one-quarter of one percent (0.0025) of the total gross liquor sales less a *deductible, not to exceed \$15,000.
	Beer & Wine		[\$900] \$1,380 , and one-quarter of one percent (0.0025) of the total gross liquor sales less a *deductible, not to exceed \$15,000.
	Alcohol		[\$60] \$96
5	Dispenser		
	(a) General (includes all liquor except alcohol)		
		(1) Category 1 - Standard	[\$1,200] \$1,800 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
		(2) Category 2 - Nudity	[\$1,440] \$2,160 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
		(3) Category 3 - Music/Dancing	[\$1,320] \$1,980 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
		(4) Category 4 - Hostess	[\$1,440] \$2,160 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
		(5) Categories 3 & 4	[\$1,500] \$2,280 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
		(6) Categories 2 & 3	[\$1,620] \$2,460 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.

CLASS	KIND		FEEs
			\$25,000.
		(7) Categories 2 & 4	[\$1,620] \$2,460 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
		(8) Categories 2, 3 & 4	[\$1,740] \$2,640 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
	(b) Beer & Wine		
		(1) Category 1 - Standard	[\$900] \$1,380 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
		(2) Category 3 - Music/Dancing	[\$960] \$1,440 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
		(3) All other combinations	[\$1,020] \$1,560 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
	(c) Beer		
		(1) Category 1 - Standard	[\$360] \$540 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
		(2) Category 3 - Music/Dancing	[\$420] \$660 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
		(3) All other combinations	[\$540] \$840 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
6	Club	<u>(1) Category 1 - Standard</u>	[\$660] \$1,020 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$15,000.
		<u>(2) Category 2 - Music/Dancing</u>	<u>\$1,080, and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$15,000.</u>
8	Transient Vessel		
	(a) Per day		[\$60] \$90

CLASS	KIND		FEEs
	(b) Per year		[\$1,320] \$1,980
9	Tour/Cruise Vessel	<u>(1) Category 1 - Standard</u>	[\$900] \$1,380 , and one-half of one percent (0.005) of four (4) times the amount of liquor purchased less a *deductible, not to exceed \$10,000.
		<u>(2) Category 2 - Music/Dancing</u>	\$1,440, and one-half of one percent (0.005) of four (4) times the amount of liquor purchased less a *deductible, not to exceed \$10,000.
10	Special, per day		
	(a) General (includes all liquor, except alcohol)		[\$60] \$90
	(b) Beer & Wine		[\$40] \$60
	(c) Beer		[\$30] \$45
11	Cabaret, General		
		(1) Category 1 - Standard	[\$1,980] \$3,000 , and three-fourths of one percent (0.0075) of the total gross liquor sales less a *deductible, not to exceed \$30,000.
		(2) Category 2 - Nudity	[\$2,400] \$3,600 , and three-fourths of one percent (0.0075) of the total gross liquor sales less a *deductible, not to exceed \$30,000.
12	Hotel, General		[\$3,960] \$5,940 , and three-fourths of one percent (0.0075) of the total gross liquor sales less a *deductible, not to exceed \$45,000.
13	(a) Caterer, General (Class 2, Class 12, Class 15 only)		[\$30 per day] \$45 per day
	(b) Caterer, General (Food Service Business Type)		
		(1) Category 1 - Standard	[\$600] \$900 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000, plus [\$30] \$45 per day.
		(2) Category 2 - Music/Dancing	[\$720] \$1,080 , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000, plus [\$30] \$45 per day.

CLASS	KIND		FEES
14	Brewpub		
		(1) Category 1 – Standard	[\$1,680] <u>\$2,520</u> , and three-fourths of one percent (0.0075) of the total gross liquor sales less a *deductible, not to exceed \$40,000.
		(2) Category 2 – Music/Dancing	[\$1,800] <u>\$2,700</u> , and three-fourths of one percent (0.0075) of the total gross liquor sales less a *deductible, not to exceed \$40,000.
15	Condominium Hotel, General		[\$3,000] <u>\$4,500</u> , and three-fourths of one percent (0.0075) of the total gross liquor sales less a *deductible, not to exceed \$45,000.
16	Winery		[\$1,200] <u>\$1,800</u> , and one-half of one percent (0.005) of the total gross liquor sales less a *deductible, not to exceed \$25,000.
17	BYOB		
		(1) Category 1 – Music only	[\$360] <u>\$540</u>
		(2) Category 2 – Music/Dancing	[\$420] <u>\$660</u>
18	Small Craft Producer Pub		
		(1) Category 1 - Standard	[\$1,680] <u>\$2,520</u> , and three-fourths of one percent (0.0075) of the total gross liquor sales less a *deductible, not to exceed \$40,000.
		(2) Category 2 – Music/Dancing	[\$1,800] <u>\$2,700</u> , and three-fourths of one percent (0.0075) of the total gross liquor sales less a *deductible, not to exceed \$40,000.
n/a	Temporary		<p>[\$275] <u>\$420</u> for an initial period of one hundred twenty (120) days or any part of the period the license was in use, and the current rate of assessment of the respective license class of the license applied to the total gross liquor sales.</p> <p>The fee for renewal of such license shall be [\$275] <u>\$420</u> for the renewal period or any part of the period the license is in use, and the current rate</p>

CLASS	KIND		FEES
			of assessment of the respective license class of the license applied to the total gross liquor sales.

(b) Solicitors' and Representatives' Permits. The fees for solicitors' and representatives' permits shall be for each license year (commencing on July 1 and ending on the succeeding June 30) and shall be in the following amounts: General, [~~\$140~~] \$210; Beer and Wine, [~~\$85~~] \$130; Alcohol, [~~\$6~~] \$9.

§3-81-17.58. Trade Name; Change; Fee.

A new licensee or transferee shall have a choice of trade name, however, any trade name must be registered with the State Department of Commerce and Consumer Affairs. Any current or pending licensee desiring to change an existing or previous trade name shall submit to the Commission a Certificate of Registration of Trade Name issued by the State Department of Commerce and Consumer Affairs, showing approval of that registration. A processing fee of [~~\$30.00~~] \$45.00 shall be assessed by the Commission for any change of existing trade name to include a license transfer.

§3-82-33.11. Applications for Individual Permits to Receive Shipments of Liquor.

- (a) Any person twenty-one (21) years of age or older may apply to the Commission, on the form prescribed by the Commission and upon payment of a permit fee of [~~\$12.00~~] \$18.00, for a permit to receive a shipment of liquor from outside the State, within the limits allowed by Chapter 281, Hawaii Revised Statutes.
- (b) The application form shall include the following information:
 - (1) A description of the liquor as to type, brand or trade name, domestic or imported and quantity.
 - (2) Whether the liquor is an unsolicited gift unavailable in the State, or part of the applicant's household goods.

§3-82-33.6. Direct Shipment of Wine by Wineries.

- (a) Any manufacturer of wine who desires to ship wines to residents of the County of Honolulu shall obtain a Direct Wine Shipper Permit from the Liquor Commission, City and County of Honolulu. The permit may be granted by the Administrator to any person holding:
 - 1. A general excise tax license from the State of Hawaii Department of Taxation; and
 - 2. Either:
 - A. A Class 1 license to manufacture wine under Section 281-31, HRS; or
 - B. A license to manufacture wine issued by another state.
- (b) The term of the permit shall be for one calendar year. The applicant for a permit shall submit:
 - 1. An application form;

2. Copy of the State of Hawaii Department of Taxation general excise tax license;
3. Copy of the Class 1 license to manufacture wine under Section 281-31, HRS, or the license to manufacture wine issued by another state; and
4. Payment of an annual permit fee of [~~\$120.00~~] \$180.00; provided, that the annual permit fee for a manufacturer of wine licensed under Section 281-31, HRS, shall be inclusive and part of its annual license fee. For purposes of this rule, permit fees shall be prorated.

No permit shall be issued unless the applicant has met the foregoing requirements.

- (c) The holder of a Direct Wine Shipper Permit may sell and annually ship to any person twenty-one years of age or older in this county no more than six nine-liter cases of wine per household for personal use only and not for resale, and shall:
 1. Ship wine directly to the person only in containers that are conspicuously labeled with the words containing or similar to:
"CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY."
 2. Require that the carrier of the shipment obtain the signature of any person twenty-one years of age or older before delivering the shipment;
 3. Report no later than January 31 of each year to the Liquor Commission the total amount of wine shipped to persons in this county during the preceding calendar year;
 4. Pay all applicable general excise and gallonage taxes. For gallonage tax purposes, all wine sold under a Direct Wine Shipper Permit shall be deemed to be wine sold in the state; and
 5. Be subject to audit by the Liquor Commission.
- (d) The holder of a license to manufacture wine issued by another state shall annually renew a Direct Wine Shipper Permit by providing the Liquor Commission with a renewal application, a copy of the current license to manufacture wine, and payment of the annual fee.
- (e) The sale and shipment of wine directly to a person in this state by a person that does not possess a valid Direct Wine Shipper Permit is prohibited. Knowingly violating this law is a misdemeanor.

§3-83-54.1. Filing Fees.

A filing fee of [~~\$250~~] \$375.00 shall be paid with an application for a new license or the transfer of an existing license, as required by Section 281-54, Hawaii Revised Statutes. The filing fee shall be applied to the payment of the license fee required by §3-81-17.52 where the license is granted and shall become a realization of the City where the license is denied or the application is withdrawn.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 17-355, CD1

Introduced: 12/19/17 By: RON MENOR – BY REQUEST Committee: BUDGET

Title: RESOLUTION AMENDING RULES §3-81-17.51, §3-81-17.58, §3-82-33.11, §3-82-33.6, AND §3-83-54.1, RULES OF THE LIQUOR COMMISSION OF THE CITY AND COUNTY OF HONOLULU, AND PERTAINING TO LIQUOR LICENSE, TRADE NAME CHANGE, PERMIT, AND FILING FEES.

Voting Legend: * = Aye w/Reservations

01/24/18	BUDGET	CR-37(18) – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION AS AMENDED IN CD1 FORM.
01/31/18	COUNCIL	CR-37(18) AND RESOLUTION 17-355, CD1 WERE ADOPTED. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


GLEN I. TAKAHASHI, CITY CLERK


RON MENOR, CHAIR AND PRESIDING OFFICER